IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.454 OF 2005

Vittal @ Balu Changdev Veer ...Petitioner
vs.
State of Maharashtra ...Respondent

Mr.A.D.Kango (Adv.appointed)
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 24,2005

P.C.:

1. This Petition is filed through jail for challenging the order dated 3rd December 2004 passed by the Competent Authority by which the application for furlough leave made by the Petitioner has been rejected. The furlough leave is rejected on the ground that if the Petitioner is enlarged on furlough leave, there is every possibility that he will commit serious offence. Rejection is on the basis of adverse police report by invoking Rule 4(4) of the Prisons (Bombay Furlough and Parole) Rules, 1959.

2. The learned A.P.P. has placed on record a copy of adverse police report dated 4th November 2003 submitted by the Superintendent of Police, Satara. The police report records that the Petitioner has offered surety of his father. Nothing adverse is mentioned about the surety offered by the father of the Petitioner. The report records a mere apprehension that there is likelihood of the Petitioner committing offence if he is enlarged on furlough leave. The said apprehension is

without any basis. There is no reference to any past conduct of the Petitioner or to the statement of any person recorded by the police. The report records that after the Petitioner is enlarged on furlough leave he may be tempted to consume liquor. In my view, none of the grounds mentioned in the police report makes out a case for existence of ground of rejection incorporated under Sub Rule 4 of the Rule 4 of the said Rules of 1959.

3. This is a case where mandatory direction for grant of furlough leave deserves to be issued. However, the order is passed on the basis of application made more than one and half years back and therefore, the application deserves to be reconsidered.

4. Hence I pass the following order :

i) Impugned order dated 3rd December 2004 is quashed and set aside.

ii) The concerned Authority will consider the application dated 27th September 2003 filed by the Petitioner afresh in the light of the observations made in this order.
iii) The application shall be decided within a period of twelve weeks from today.

iv) A copy of this order be forwarded to the Petitioner.

. Parties to act upon an authenticated copy of this order.

JUDGE